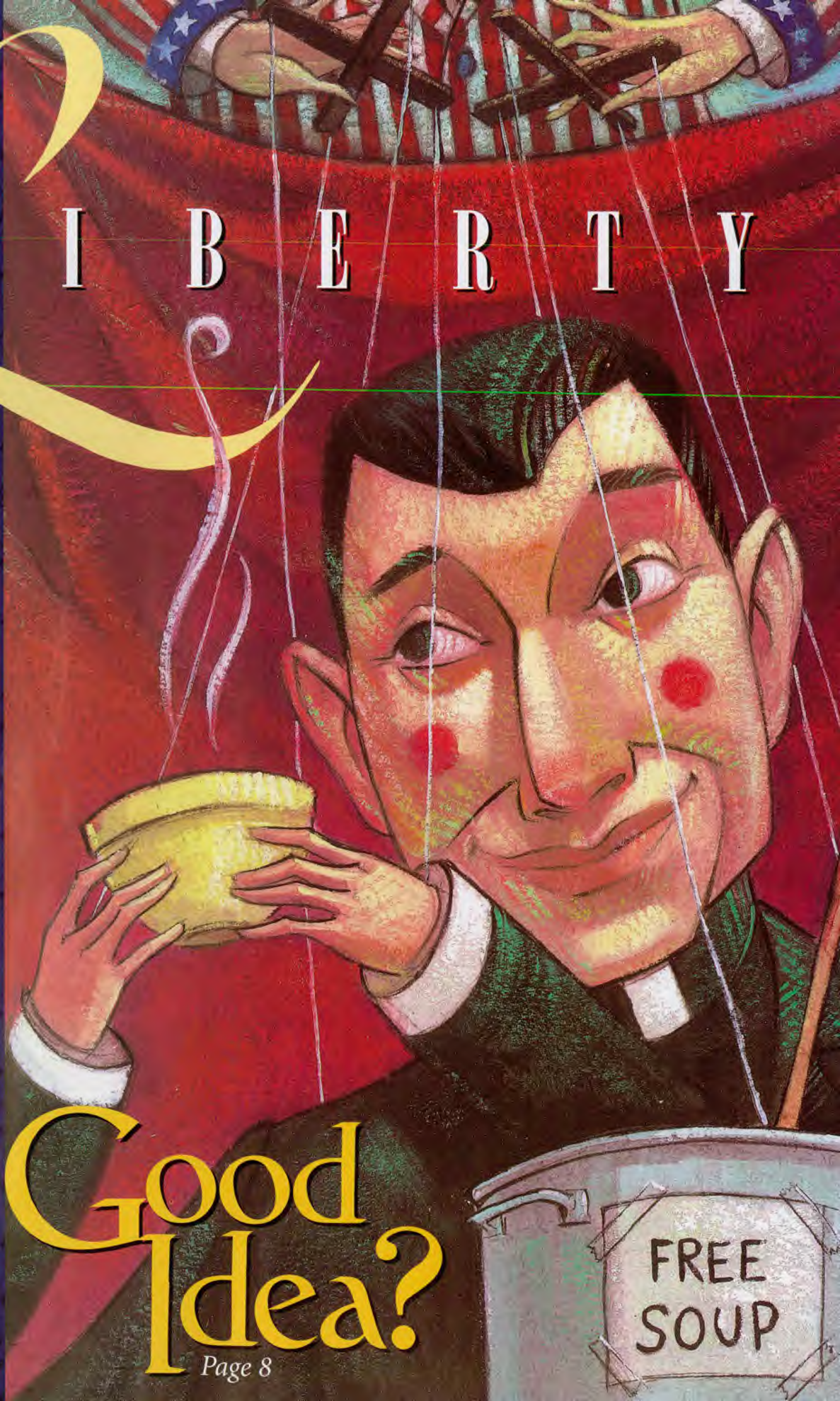
LIBERTY



Good Idea?

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By
DEBORAH BAXTROM

A job, faith

Meron Belachew


Keith Brooks

SHIELD OF FAITH
CHRISTIAN CENTERS

After Keith Brooks lost his job as a systems administrator he was forced to apply for welfare. But Brooks wasn't the type to sit on the sofa watching soap operas and ball games. He immediately began looking for a new job. The federal welfare-to-work program offered several job placement services in his area, and so he regularly made the rounds to each facility to see if work was available. But only one placement center succeeded in finding Brooks employment—Shield of Faith, a Pentecostal church located in Pomona, California, where Brooks resides.

Thanks to the historic Welfare Reform Act signed by President Bill Clinton in 1996, Shield of Faith received $250,000 in government funding in 1999 to run a job placement service. This legislation included a "charitable choice" provision that gave states and local jurisdictions the flexibility to contract with faith-based organizations to help administer welfare-to-work programs. When President George W. Bush took office in January, one of his first acts was to announce his intention to enlarge dramatically upon this program, making it even easier for faith-based organizations to receive federal funding for social service programs.

& public funding

Spiritual duty and public service at work

His proposal has generated heated protest from both ends of the political spectrum.

Opponents of President Bush's policy are troubled that we are stepping into uncharted territory. They fear that his proposal to allow churches, synagogues, and other religious institutions to compete for government dollars will result in government coercion and discrimination against minority religious groups.

Keith Brooks doesn't really relate to these arguments. In his view people in trouble are not concerned with church/state issues. They just want help, and faith-based organizations provide the best opportunity for getting the help they desperately need.

"I haven't found employment through any other agency," says Brooks. "When you get into a slump like this [being laid off], you need to do more than just look for a job. There's a certain emotional side of a person that takes you down. You need support—spiritual support—and I found that at Shield of Faith. Everybody there is willing to help. They kind of stepped in and grabbed me. They nurtured me, they talked to me. It's really like a family. . . . The way [secular] government programs are set up, they can't actually nurture people. They try to come up with their own services, but that's not the answer. The answer is God."

Meron Belachew agrees. Belachew is program director for the Shield of Faith welfare-to-work program. She supervises the agency's small staff (five employees, including herself). Their offices are located across the hall from the church sanctuary.

"When people walk into our offices they are usually depressed. Their self-esteem is low. We're the only faith-based organization in Los Angeles County that is funded by the government," says Belachew. "When people see a church or a faith-based organization, especially people who have had a hard time in life, it is like their last hope. Here they find a group of people not only willing to help

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them find work, but help them get a bus pass, maybe help them get off drugs, get out of an abusive relationship, or help them care for their kids."

While all welfare-to-work programs offer services such as résumé writing, job leads, and job fairs, many secular organizations are not willing or able to make the same personal commitment to their clients that faith-based organizations such as Shield of Faith are eager to make. For instance, Shield of Faith agency employees often drive clients to job interviews, provide on-site child care, help them open bank accounts, and even visit them at home if they're late for a job or fail to show up for work.

"When people have been hurt so badly, some of them revert back to the state of a two-year-old, and you have to take them by the hand and walk with them," says Belachew. "As soon as they see doors opening, that they're capable of making it on their own, suddenly they're 35 years old again. Not everyone is like that, of course. Some people have simply lost their jobs and have had to go on welfare. All they need is another opportunity. We've had great success stories like that too."

In one case Belachew and her staff baby-sat a woman's five children for an entire summer, keeping them busy with activities around the office, while their mother worked at a warehouse job—a job Shield of Faith found for her. The woman was promoted to an administrative position and was able to move her family out of House of Ruth (a shelter for abused women and children) and into her own apartment. She never went back to collecting welfare.

Keith Brooks

Although government-funded secular welfare-to-work agencies do perform some similar services, for Belachew and her staff such acts are part of their duty—not simply their professional duty, but also their spiritual duty. Only the most cynical of opponents would fault Shield of Faith's staff members for going the extra mile for their clients, and their dedication is reflected in the success they've enjoyed. Out of the approximately 100 people that Shield of Faith has served in the past year and a half, about 70 percent have successfully made the welfare-to-work transition. According to Belachew, many of the remaining 30 percent are not working because they've gone back to school (an option provided by the Welfare Reform Act).

In Keith Brooks's case, he has yet to find permanent employment as a systems administrator. The jobs Shield of Faith has found for him have been temporary positions. In the interim he volunteers at Shield of Faith in a number of capacities, both for the agency and the church. On weekdays he helps new clients to feel comfortable when they enter the agency by greeting them at the door and taking them through the first steps of the registration process. He has joined the Shield of Faith congregation, and he runs the audio board during church services. "I do whatever I can to keep myself busy," says Brooks. "When you're not doing anything your self-esteem really goes down."

Brooks also attends the Shield of Faith Bible College. He wonders if he's seeking employment in the wrong field, speculating that perhaps God is leading him into the ministry. While Brooks says he has always believed in God, he remembers how surprised he was when he had first completed his job placement application at Shield of Faith and the development coordinator asked to pray with him for his success.

"I said, 'Pray?'" laughs Brooks. "I had a big smile on my face. It was kind of funny because no one had ever . . . I mean, I'd prayed for jobs before, but not actually at an employment agency. It really made me feel good."

Of course, offering prayer at a government-funded job placement agency is precisely the sort of activity that makes opponents of President Bush's expansion policy nervous. Questions immediately arise: How much religion is permissible in government-funded programs? Will clients feel pressured, directly or indirectly, to participate in religion in order to obtain assistance? Will the government favor certain churches or religious groups over others when doling out federal funding? And how will local governments monitor agency staff members to determine if they are mixing too much religion with state business?

So far the Bush administration has not offered any clear answers to these questions. Of course, such religious organizations as Catholic Charities and Lutheran Social Services have been receiving government funding for social service programs for decades. And when President Clinton first announced the "charitable choice" provision as part of the 1996 Welfare Reform Act few objections were voiced. (The charitable choice provision was later extended to include community development and drug treatment programs, again with little fanfare or protest.) However, until now, faith-based organizations receiving federal funding were required to keep church and state agency activities distinctly separate. President Bush's plan does not appear to take such a strict stance on the separation issue—one of the reasons his initiative has met with such vocal criticism. The Bush team has promised to present more clear-cut guidelines in the next few months.

n **Keith Brooks's** *view people in trouble are not concerned with church/state issues. They just want help, and* **faith-based** *organizations provide the best opportunity.*

Of course, to Belachew, such questions simply brew a tempest in a teapot, stirring up problems where none exist. "When we offer to pray for clients, they are delighted," says Belachew. "Often they're grabbing our hands for prayer before we can even reach for theirs. We *ask* them if we can pray for them, we would never force it on anyone. It's like when someone walks in, we might ask, 'Would you like a cup of coffee?' A person has the option to say yes or no. If someone says no, that's not going to stop us from helping them. It's just a simple offer."

Opponents contend that it's a dangerous, or even unconstitutional, offer when voiced by an employee of a government-funded agency. Not surprisingly, the most vocal opposition to the expansion plan has come from such organizations as Americans United for the Separation of Church and State and the American Civil Liberties Union. These groups maintain that Bush's plan essentially amounts to government funding of religion. These secular groups are currently making strange bedfellows with a host of religious groups that are equally jittery about the Bush proposal.

"This thing could be a real Pandora's box," stated Pat Robertson, head of the Christian Coalition and a Bush supporter during the presidential campaign, on his television program, *The 700 Club*. "And what seems to be such a great initiative can rise up to bite the organizations as well as the federal government."

Robertson has expressed his concern that Bush's policy will allow religious groups from outside the mainstream—such as the Hare Krishnas, the Church of Scientology, and the Unification Church—to compete for federal funding on an equal footing with more conventional religious groups.

"You know, I hate to find myself on the side of the Anti-Defamation League . . . but this gets to be a real problem," said Robertson, referring to the Jewish group that has also verbalized concerns about Bush's plan.

Robertson's son, Gordon Robertson, furthered his father's argument, saying, "If we're going to open up federal programs for funding to faith-based initiatives . . . the government can't make a judgment as to what faith is legitimate and what is illegitimate." He also stated, "I don't see how on a constitutional basis you can say, 'Well, this belief is OK, and this belief is not.'"

Many faith leaders agree. They question the Bush administration's understanding of the religious pluralism in America and his commitment to protecting religious minorities from discrimination. "With more than 2,000 religious traditions practiced in the United States, President Bush has yet to offer a plan that will demonstrate how political appointees will award money in an equitable manner," said Michael Carrier, president of the Interfaith Alliance of Colorado and pastor of Calvary Presbyterian Church in Denver. "If different faith charities representing widely differing religious groups proffer the same results, who decides which religion deserves funding and who should be excluded?"

When President Bush announced his plan, he stated that the government "will not fund religious activities of any group," but then went on to say that "faith-based charities should be able to compete for funding on an equal basis, and in a manner that does not cause them to sacrifice their mission."

"I said, 'Pray?' I mean, I'd prayed for jobs before, but not actually at an employment agency.

Noting the contradictions inherent in the president's statement, C. Welton Gaddy, executive director of the Interfaith Alliance, said that the "president cannot have it both ways . . . . There are numerous questions about how this federal initiative will treat religious groups and whether it is even possible to claim a commitment to equity," noted Gaddy. "After all, religion is not a generic idea, and the substance of each faith is very specific. There is a big difference between evangelical Christianity and Hinduism, or the Church of Scientology and Buddhism. In a politically charged environment like the White House, religious minorities from unknown or ridiculed faith traditions that could spark controversy are highly unlikely to receive federal support."

"Tax dollars come with strings that will effectively turn religious leaders into government puppets," Gaddy warned. "Take away the strings, and you take away the accountability, which opens the door to lawsuits . . . . President Bush's plan to subsidize religious charities is not a partnership; it is contractual employment with rules, regulations, and risks. 'Buyer Beware' should be posted on the door of this White House office."

Americans United for the Separation of Church and State, vehemently opposed to the Bush proposal, views the opposition of Pat Robertson and other religious leaders as an indication that Bush's plan will ultimately fail. When asked about Robertson's comments, Barry Lynn, the group's executive director, said, "This means Bush's plan is in enormous political trouble."

So far Bush is standing by his decision to expand upon the Welfare Reform Act's charitable choice option. Responding to criticism from religious leaders, White House spokeswoman Claire Buchan said: "We think this program is based on sound principles, and that it is the right thing to do, and the president is very committed to it."

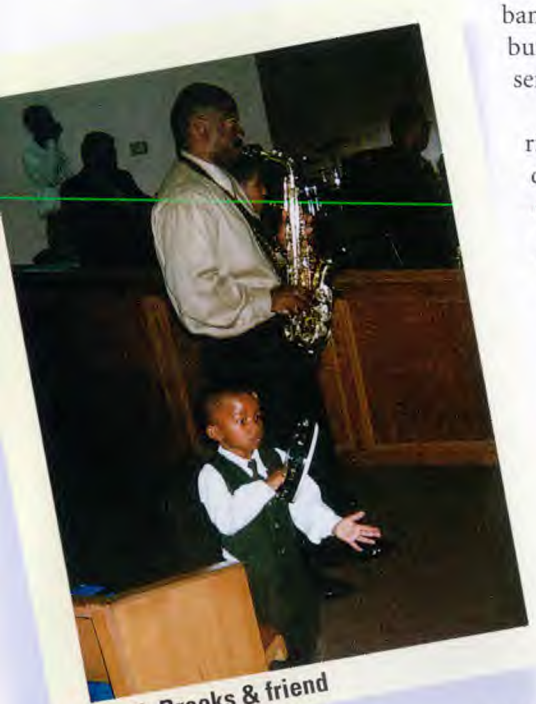
The White House has some reason to be optimistic. Not all religious organizations have taken a negative stand. Many religious leaders have praised Bush's proposal and have high hopes for its success. In fact, when Bush made his announcement in January he was joined by 25 representatives of faith-based organizations, all of whom expressed enthusiasm for the initiative and made it clear that they intend to take full advantage of the chance to secure federal funding for their churches' community service programs.

Several government officials have also voiced their support of Bush's expansion plans. "In many communities, the only institutions that are in a position to provide human services are faith-based organizations," said Sheri Steisel, director of the National Conference of State Legislatures' Human Services Committee. "Contracting with faith-based and other community organizations to pro-

vide government services is something that has proven effective in the states over the past five years. We are extremely pleased that the president is joining the states in exploring these new opportunities."

Representative Tony P. Hall, (D-Ohio) has praised the Bush proposal as a promising way of helping faith-based organizations battle poverty, hunger, and other social ills to a degree that they might not be able to without the availability of government funds. Hall actually thinks the program should be extended even further to include food banks and other entities that provide not only food, but literacy training, drug rehabilitation, and other services to the needy.

"To those who worry that we are in uncharted territory, I would point out the work American charities do overseas, coping with . . . terrible earthquakes . . . easing famine in Africa, Asia, and Latin America, and promoting development around the world," Hall stated. "Many of these organizations are closely affiliated with religious groups; many of their projects are from missionary roots. This work leverages private funds and achieves results that often last generations. . . . This is a common sense approach that deals with the challenges many Americans face head on. It deserves a chance, and I commend President Bush for giving it one."



Keith Brooks & friend

With such strong arguments being voiced on both the left and the right, it's clear that the issue of federal funding for faith-based organizations will not disappear in the foreseeable future. While the issue of maintaining a separation of church and state is obviously an extremely important matter, so are the lives of the thousands of people who are seeking help in getting their lives back on track. Most agree that the government and private charities must both assist in providing these people with an effective path to becoming productive citizens. The question is, Can—and should—the government and religion work together in this effort?

The folks at Shield of Faith clearly believe that they can help more people with government funding than they could if they had to rely on private funding only. Meron Belachew insists that the Shield of Faith program is strictly geared to helping people in need and has nothing to do with proselytizing. "Sometimes clients end up joining our church, sometimes they don't," says Belachew. "There's no pressure, because that's not our focus. These fears that people are feeling, I don't think they're legitimate, because the church is not funded to be a church. The church is funded for a singular purpose—serving people. That's what the agency staff focuses on, then if clients want to take spiritual steps, that's up to them."

On the other hand, is she concerned that the government will interfere with church affairs? "In my experience, the government is simply concerned with whether we are achieving our goal of serving people, whether our files are in proper order. They haven't interfered with our church, and I don't believe they would ever do that. If we stay focused on serving people, then we won't get into a lot of church and political clashes or a lot of unfounded fears. Fear is causing people to tear down a program that's working well, but that's common of any new venture. The thing is, if we don't do this job, someone else will have to. The government will have to hire more people, build more buildings, spend more money. Why? We're already here. Use us."

This front line report illustrates well why there is such a groundswell call for assisting faith-based programs that work. If the issue is cast wrongly, it turns into a discussion of whether these are valid social programs. Correctly addressed, the question should focus on the advisability and constitutionality of any funding partnership between church and state. Editor.

Is the much-discussed faith-based i

Good Idea?

By Michael Tanner

Back before he became president, George W. Bush used to tell us that "not every good idea should be a federal government program." Maybe it is advice he should have remembered before he announced his recent plan to distribute billions of dollars in federal funds to private and religious charities over the next 10 years.

Few in Washington dispute the good work done by private faith-based charities. Such organizations have a proven history of transforming individual lives and helping to raise people out of poverty and despair. Indeed, private charities have often proved more effective than government welfare programs in fulfilling these roles. They often do more with less, and their success can be seen in the tens of thousands of former addicts, self-sufficient families, and others who have turned their lives around.

In light of this record of success, it might seem natural for President Bush to want to encourage these groups. But in proposing that the federal government distribute billions of dollars directly to these groups, he risks mixing government and charity in a way that could undermine the very things that have made private charity so effective.

Michael Tanner is director of health and welfare studies at the Cato Institute in Washington, D.C. A prolific author and frequent guest lecturer, Tanner served as director of research of the Georgia Public Policy Foundation before joining Cato in 1993.

The first round of debate over the president's initiative has been dominated by questions of church-state separation. Certainly there are reasons for concern here. President Bush has tried to assure critics that any funds given to faith-based initiatives would not be used for sectarian purposes. But the line between sectarian and nonsectarian is not so easy to draw.

Diana Etendi, an analyst with the Welfare Policy Center at the Hudson Institute, points out the many difficulties in drawing such distinctions: "If the pastor of a church where a new government job readiness class is starting stops by to welcome the new group of job-seeking welfare recipients and offers a prayer on their behalf, is that sectarian worship? If God or a biblical principle is mentioned during the course of counseling, is that sectarian instruction? If a client suffering a bitter divorce is invited to attend one of the church's regular support groups, is that proselytizing?"

There are also issues raised about the fungibility of money provided to religious charities. If faith-based organizations are able to use federal funds for their "secular" charitable activities, funds that they had previously used for

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those activities will be freed up to be used by their religious activities, essentially taking money out of one pocket and putting it into the other. In a real sense, the effect would be the same as if the federal government were directly funding the religious activities. This is what the Supreme Court has called "a legalistic minuet." In fact, this is exactly the same logic that President Bush used in barring government funds to organizations that provide abortion counseling overseas.

Finally there is the question of what criteria the government will use in determining whether a faith-based institution will be eligible for federal funds. While President Bush has been careful to insist that faith-based initiatives will be funded without regard to denomination, recent history provides ample cause for concern here. For example, many observers believe

that one of the most effective organizations in addressing substance abuse and criminal behavior is the Nation of Islam. Yet when it was revealed in 1995 that the Nation of Islam had received contracts from the Department of Housing and Urban Development for providing security in public housing projects, there was an uproar in Congress. Critics claimed that the organization's history of anti-Semitism and discrimination against Whites disqualified it from receiving federal contracts.

The whole idea of government charity is an oxymoron. After a

During the 2000 presidential election campaign, then-candidate Bush was asked if he would be willing to provide public funds to the Nation of Islam. He replied, "I don't see how we can allow public dollars to fund programs where spite and hate is the core of the message." Of course, "hate" is frequently a subjective term. Some have even accused Catholics and evangelical churches of preaching hate toward gays or even Jews.

There have been other attempts by Congress to bar public funds and facilities for religious groups that are out of the mainstream. For example, Representative Bob Barr (R-Ga.) has called for prohibitions on Wiccans conducting religious services on U.S. military bases. One wonders what reaction Representative Barr would have if a Wiccan group were given a grant to provide social services.

But while church-state arguments are important, they may be obscuring another equally important issue—how the president's initiative may harm the very charities he wishes to help.

Both the president and some religious leaders speak of a partnership between government and charity, but we should all remember that in any such "partnership" it is the government that is the senior partner. Government standards and the considerable regulation intended to ensure accountability and quality care inevitably come attached to government grants and contracts. In the end, what these standards and regulations would likely ensure is nothing more than tremendous waste and major headaches for faith-based charities. Charities will have to prove that they are not using government funds for proselytizing and other exclusively religious activities. That means government regulators will be snooping through their books, checking for compliance. The potential for government meddling is tremendous, but even if the regulation is not abused, it will require a redirection of scarce resources away from charitable activities and toward administrative functions. Officials of these charities may end up spending as much time reading the *Federal Register* as the Bible or other holy books.

Many large charities have avoided the worst of these regulatory intrusions by setting up separate, virtually secular arms of their organizations to handle their social services. But this is not a tactic easily available to the small neighborhood churches that are among the most effective.

Besides, why should faith-based charities eschew proselytizing and explicitly religious functions? There is a reason for the "faith" in "faith-based" charities. These organizations believe that helping people requires more than simply food or a bed. It requires addressing the deeper spiritual needs. It is ultimately about God. Yet in the end Bush's proposal may transform private charities from institutions that change people's lives to mere providers of services, little more than a government program in a clerical collar.

Amy Sheridan, a social policy analyst with the Hudson Institute, has studied faith-based charities and found that "the most effective groups challenge those who embrace faith to live out its moral implications in every significant area of their lives, from breaking drug or alcohol addiction and repairing family relationships to recommitting themselves to the value of honest work." But Sheridan expresses concern that government social service contracts are not concerned with such outcomes. They don't measure success by

whether a person has changed their life or embraced God, but by "the number of meals served, beds available, or checks cashed."

Even those charities with the best of intentions will be tempted to subtly shift the emphasis of their mission to comply with the grant criteria. In some cases this means becoming increasingly secular in orientation; in others it may simply be the adoption of new missions and services that distract from the church's original goal. It is one thing for a church to open a soup kitchen because its congregation feels that God has called them to do so. It is another to open that kitchen because someone dangles grant money in front of them.

In fact, one could wonder about what kind of message such charities would be sending to their clients. On the one hand, they would be trying to teach people to be responsible and independent, to find work rather than welfare, to take care of themselves. But at the same time the organization would have its own hand out asking for a form of welfare. That seems as contradictory as an anti-smoking group investing in tobacco stocks.

The whole idea of government charity is an oxymoron. After all, the essence of private charity is voluntariness, individuals helping one another through love of neighbor. In fact, in the Bible, the Greek word translated as charity is *agapao*, which means love. But the essence of government is coercion, the use of force to make people do things that they would not do voluntarily. As historian and social commentator Gertrude Himmelfarb puts it: "Compassion is a moral sentiment, not a political principle." This difference is as simple as the difference between my reaching into my pocket for money to help someone in need and my reaching into your pocket for the same purpose. The former is charity—the latter is something else.

ne essence of private charity is voluntariness.

There is an even more profound threat to the identity and mission of these charities themselves. If the history of welfare teaches us anything, it is that government money is as addictive as any narcotic. Ironically, therefore, given that many private charities are dedicated to fighting welfare dependency, government funding may quickly become a source of dependency for the charities themselves. Lobbying for, securing, and retaining that funding can quickly become the organization's top priority.

Already many of our largest charities receive more money from the government than from private donations and maintain large professional lobbying organizations in Washington. One newspaper described these organizations as "transformed from charitable groups run essentially on private donations into government vendors—big businesses wielding jobs and amassing clout to further their own agendas." Kimberly Dennis, former executive director of the Philanthropy Roundtable, notes that such organizations are "more interested in expanding government's responsibilities than in strengthening private institutions to address social concerns." In many ways they have simply become another special interest at the trough of federal largesse.

Surely we do not want to put charities on the dole. Is there any reason to believe that welfare for charities would be any less destructive than welfare for individuals?

True charity is ennobling of everyone involved, both those giving and those who receive. A government grant is ennobling of no one. Alexis de Tocqueville recognized this more than 150 years ago when he called for the abolition of public relief, citing the fact that private charity established a "moral tie" between giver and receiver. But that tie is destroyed when the money comes from an impersonal government grant. The donors (taxpayers) resent their involuntary contribution, while the recipients feel no real gratitude for what they receive.

Private charities may find even fewer people contributing voluntarily. If people come to believe that government will provide the funding, they may decide that there is less need for their own contributions. This will result in a loss not only of money, but of the human quality of charity. As Robert Thompson, of the University of Pennsylvania, noted a century ago,

using government money for charitable purposes is a "rough contrivance to lift from the social conscience a burden that should not be either lifted or lightened in any way."

The result will be a substitution of coercive government tax financing in the place of compassion-based voluntary giving. That would mean an end to *charity* as we know it.

More than 20 years ago religious scholars Peter Burger and Richard Neuhaus argued against government funding of faith-based charities, warning that "the real danger is that [faith-based organizations] might be co-opted by government in a too-eager embrace that would destroy the very distinctiveness of their function."

There is no reason to take this risk. Private charity is thriving in the United States of America. We are arguably the most generous nation on earth. In 1999 Americans contributed more than $190 billion to charity. More than $80 billion of that was given to religious organizations. And that represents an increase of more than $4 billion over the previous year.

In addition, more than half of all American adults perform volunteer work. That time and effort is worth more than an additional $225 billion. And that does not include the countless dollars and time given to family members, neighbors, and others outside the formal charity system.

To his credit, President Bush's proposal does contain a number of valuable ideas to make it even easier for Americans to build on this generous record, including proposals to allow taxpayers who do not itemize to deduct their charitable contributions. Some experts estimate that this could encourage an additional $12-15 billion in contributions each year.

The few billion dollars per year that the federal government could add to this mix would be little more than drops in an ocean of charitable giving. Yet with those few dollars will surely come strings, regulations, and serious questions regarding the separation of church and state. Charities that accept government funds might find themselves overwhelmed with paperwork and subject to a host of federal regulators. And as they became increasingly dependent on government money, these charities could find their missions shifting, their religious character lost, the very things that made them so successful destroyed. The whole idea of charity could become subtly corrupted, blurring the difference between the welfare state and true charity. It is a very high price to pay for a handful of federal dollars.

Mr. President, private charity is a good idea. But please don't make a federal program out of it.

"Our predicament now [is] very similar to the conditions of nonconforming Christians in England during the reign of Charles I in the early seventeenth century. The State then and now has felt that all areas of life ought to be under its control.

"Charles I and the U.S. federal government have both taxed heavily. The purpose of taxes is partly to gain funds, but taxation is a form of revolution in the modern age. Taxation is also used to control behavior. In order for churches and religious institutions to maintain their rightful tax exemptions, they must follow the guidelines laid down by the government.

"This was also true in the days of Charles I. Only those belonging to the State church had 'liberty.' To belong to the State church meant, especially for ministers, that they had to approve of certain doctrines and practices in Church and State. The alternative was to be cast out, to become a nonconformist, and to be persecuted.

The Unfinished Story

"Some Christians, not willing to compromise, were driven to the point of leaving their native England. They came to America in search of religious freedom. Christians have now gone full circle. The conditions of the England of Charles I have found their way across the ocean to the land which sheltered those English religious outcasts, the United States of America. . . .

"There is, however, a difference. The Puritans of the seventeenth century were seeking to control a State church with their perspective. The embattled Christians of twentieth-century America seek to avoid controls on themselves and others: they want freedom for Christ's kingdom from the power of the State. Some centuries before the Puritans, John Wycliffe had begun a movement to place the Bible in the hands of the people. The survivors of his movement, the Lollards, merged with the Puritans. Step by step, the Christian society in the United States moved from the old-established-Church pattern to an emphasis on the separation of Church and State (*not* Christianity and the State) *and* a grass-roots faith; conversion, not State controls. . . .

"America is an unfinished story. As a result, it is sometimes a confused and stormy one. The fact remains that the United States, which began as a new experiment in civil order, continues to be such. The issues are now sharply drawn, more so than in 1776, between a top-down civil government and Church and a grass-roots faith which reorders Church and State from below."

From James T. Draper and Forrest E. Watson, If the Foundations Be Destroyed *(Nashville: Oliver Nelson Books: 1984), pp. 165, 166.*

LIBERTY BRIEFS

Supreme Court Upholds Ban

The U.S. Supreme Court refused to hear a high school valedictorian's argument that school officials violated his civil rights by refusing to let him give a speech that a lower court described as a religious sermon.

Chris Niemeyer, co-valedictorian of his class, had planned to ask the audience to accept God's love and pattern their lives after Jesus' example at the June 1998 ceremony. After reviewing an advance copy of the speech, school officials told Niemeyer that he needed to remove the religious references. When he refused to change his speech, school officials canceled his participation in the ceremony.

Attorneys for the Oroville Union High School District said that the proposed speech was a religious testimonial, and added that Niemeyer's co-valedictorian, who is Jewish, had also objected to the speech.

Niemeyer filed a civil rights lawsuit seeking financial damages from the school district, but lost at trial. The ninth Circuit Court of Appeals upheld the ruling, saying that the speech would amount to government sponsorship of, and coercion to participate in, particular practices. The Supreme Court affirmed the ruling.

This closely follows last year's Court ruling that public school students cannot lead stadium crowds in prayer before football games under the constitutionally required separation of church and state.

—*The Advocate*, (Baton Rouge, LA), Mar. 6, 2001; www.theadvocate.com

Prayer and Government Aid

According to the New York *Times*, Samaritan's Purse, a Protestant organization that received more than $200,000 in government aid to provide relief after the devastating earthquake in El Salvador, held half-hour prayer sessions before teaching villagers how to construct temporary houses. The *Times* further reported that the group's workers distributed religious materials and tried to persuade earthquake victims to accept Christ as their Saviour.

In a one-page statement, the U.S. Agency for International Development (USAID) cited concerns of a possible appearance of a link between Samaritan's Purse prayer sessions and the distribution of government aid. The agency said it plans to work with Samaritan's Purse to ensure that they maintain adequate and sufficient separation between their prayer sessions and their USAID-funded activities.

USAID policies require that faith-based organizations keep separate accounts for government funds which are to be used for humanitarian aid and private funds used for religious activities.

Representatives of Samaritan's Purse, which was founded by Franklin Graham, son of evangelist Billy Graham, maintain that the group was not using federal funds for its religious activities.

The delicate balance between state humanitarian aid and religious outreach is a sensitive issue at a time when federal agencies are considering the logistics of President George Bush's plan to provide government aid to faith-based charities.

—*The News and Observor*, (Raleigh, NC), Mar. 7, 2001; www.newsobservor.com

Kansas Educators Reinstate Theory of Evolution

In March, 18 months after eliminating several evolution-related topics from the public school curriculum, while incorporating other theories such as creation, Kansas educators reintroduced the theory of evolution into the state curriculum.

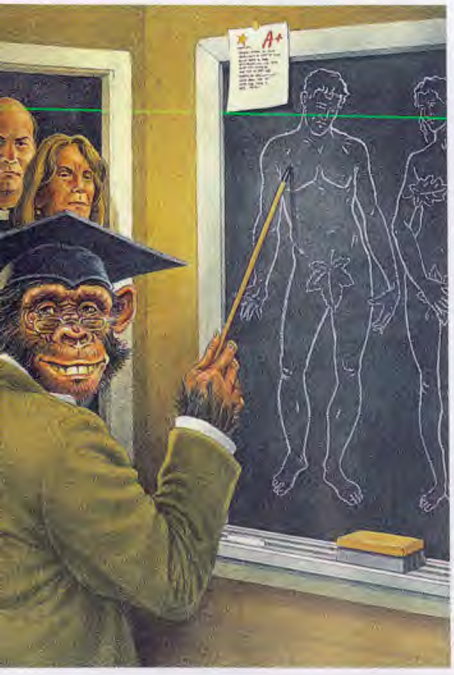
The Kansas Board of Education voted 7-3 to reject the 1999 standards that allowed local school districts to determine what to teach students about the theory of evolution. Under the standards, schools were not required to teach concepts such as the estimated age of the earth or the common ancestry of apes and humans. While religious groups applauded the standards, critics charged that the program left students ill prepared for college science classes.

Religious group argue that evolution cannot be proved and that the teaching of evolution undermines biblical teachings about the origins of life.

Efforts to remove evolution from science curricula have had varying degrees of success in Alabama, Arizona, Georgia, Nebraska, and several other states in recent years.

The conflict between religious organizations and public schools surfaced in the 1925 Scopes monkey trial, in which teacher John Thomas Scopes was prosecuted for infringement of a Tennessee law banning the teaching of evolution. Prosecuted by famed politician William Jennings Bryan and defended by noted trial attorney Clarence Darrow, the widely publicized case held the title "Trial of the Century" until the trial of O. J. Simpson arguably displaced it in the 1990s. Scopes lost at trial and was fined the minimum $100 fine. The Tennessee Supreme Court reversed the verdict on a technicality.

—*Church & State*, Mar. 1, 2001; www.au.org/churchstate



Preamble Instead of Prayer

In a creative attempt to circumvent court rulings outlawing school-sponsored prayer in public schools, a Louisiana politician has proposed a bill that would require students to recite the preamble to the Louisiana state constitution. If the proposed legislation passes, public school students could find themselves beginning each school day thanking God for the civil, political, economic, and religious liberties they enjoy.

The proposed law requires all school boards in Louisiana provide students with a daily opportunity for group recitation of the language. Participation would be purely voluntary.

The American Civil Liberties Union is researching the constitutionality of the legislation in search of what could be a violation of existing court rulings prohibiting school-sponsored prayer.

Louisiana state senator James David said he filed the bill in response to a court ruling striking down attempts by school officials to pray at school-sponsored events. "I don't see how they [the ACLU] can say this is a prayer," said Cain. "I don't know how they can fight me over a phrase in the constitution."
—*The Times–Picayune*, (New Orleans), Jan. 26, 2001; www.timespicayune.com

Church Survives Without Government Funding

For 400 years it took an act of Parliament to change the prayer book of the Church of Sweden, the official Lutheran denomination. Every newborn was registered as a church member by default, and cabinet officials chose the bishops. To finance the operation of the church, the government collected a mandatory church tax that in recent years amounted to more than $500 million in annual revenue.

Though the grand cathedrals could hold more than 900 worshipers, only two or three dozen attended weekly services. Eighty-five percent of the population of 9 million Swedes consider themselves members of the Church of Sweden.

On New Year's Day 2000 the government pulled the plug on the mandatory church tax. Though the government still continues to collect money for the church from individual taxpayers, participation in the program is voluntary and taxpayers can also choose to allocate a portion of their tax funds to other religious groups.

In spite of church leaders' fears over the lack of revenue, church leaders are reportedly noticing an increased commitment to the mission of the church among church members and an increasing understanding that the members, not the government, have the responsibility of maintaining their church.
—*The Washington Post*, Dec. 29, 2000; www.washingtonpost.com

Brochure Causes Concern

According to the Washington *Post*, the city of Washington, D.C., has voluntarily stopped distributing flyers proclaiming "Jesus Is Our Hope!" The flyer advocates increased funding for AIDS research and compassion for people with the disease.

Though many civil liberties groups and AIDS activists support these goals, they were concerned that the religious overtones of the pamphlet (which included 30 Bible references) breached the separation between church and state.

The pamphlet, entitled "A Christian Response to AIDS," was distributed at a recent health fair and was available through the city health department. According to a city spokeswoman, the department spent $380 on 1,000 copies of the brochure, which originally had been ordered for a church conference. The American Civil Liberties Union called the brochure "outrageously unconstitutional," but will not take legal action since the city voluntarily withdrew it.
—*The Washington Post*, Feb. 28, 2001; www.washingtonpost.com

Compiled by Michael Peabody.

For more information on these and other articles in this issue, visit our Web site at www.libertymagazine.org.

ILLUSTRATION BY JOHN KACHIK

Supreme Court activism and the First Amendment . . .

BEWARE the WR

By Lee Boothby

In 1990 the High Court took a wrecking ball to the free exercise clause. Now it's wake-up time, America, because the Supreme Court is only one vote away from decimating the establishment clause. Forces on the Court over the past 10 years have worked to reduce the protections of the First Amendment's religion clauses to what some would see as a meaningless shell.

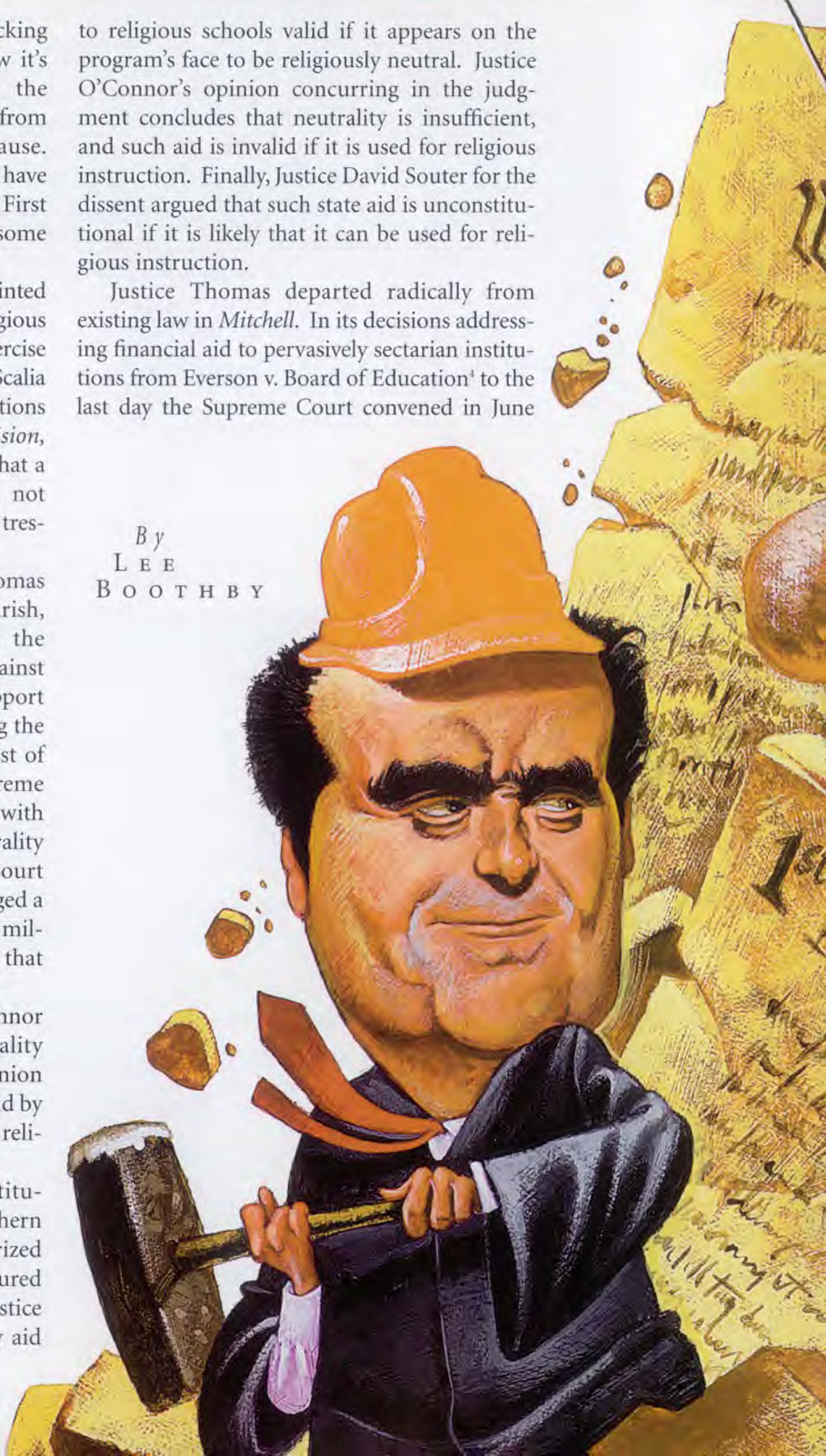
When Justice Antonin Scalia was appointed to the Court by a president endorsed by religious conservatives, most thought the free exercise clause was secure. But in 1990 Justice Scalia removed the core from free exercise protections when he decided in *Employment Division, Department of Human Resources v. Smith*[1] that a neutral law of general applicability was not unconstitutional, no matter how severely it trespassed on people of minority faiths.

On June 28, 2000, Justice Clarence Thomas decided a case against the Jefferson Parish, Louisiana, school district[2] that augurs the demise of James Madison's protections against compelling Americans to pay taxes to support another's religion. He did this by shrinking the establishment clause to merely a simple test of neutrality. Three members of the Supreme Court, including the chief justice, joined with Justice Thomas in what is called a plurality opinion (meaning a majority of the Court could not agree). *Mitchell v. Helms* challenged a federal program that gave religious schools millions of dollars of equipment and materials that could easily be used for religious purposes.

Fortunately, Justice Sandra Day O'Connor rejected the plurality's sweeping neutrality argument, observing that Thomas's opinion "holds that the actual diversion of secular aid by a religious school to the advancement of its religious mission is permissible."[3]

Professor Erwin Chemerinsky, constitutional law scholar at the University of Southern California Law School, succinctly summarized the three distinct opinions issued by a fractured Supreme Court in *Mitchell* this way: Justice Thomas's plurality opinion's test finds any aid to religious schools valid if it appears on the program's face to be religiously neutral. Justice O'Connor's opinion concurring in the judgment concludes that neutrality is insufficient, and such aid is invalid if it is used for religious instruction. Finally, Justice David Souter for the dissent argued that such state aid is unconstitutional if it is likely that it can be used for religious instruction.

Justice Thomas departed radically from existing law in *Mitchell*. In its decisions addressing financial aid to pervasively sectarian institutions from Everson v. Board of Education[4] to the last day the Supreme Court convened in June



ECKING CREW

2000, the Court has charted a somewhat meandering course, yet always recognized, as Thomas Jefferson so eloquently insisted, that "it is sinful and tyrannical for any man to be forced to support a religion to which he does not believe."[5]

In fact, a central principle of the establishment clause is the ban against using the proceeds of a general [tax] assessment in support of religion, "a practice which lies at the core of the prohibition against religious funding."[6] This ban has a lineage that reaches back to early debates over the use of money to support religion in the 13 original colonies and led to the insertion of the establishment clause placed as the first 10 words of our Bill of Rights.

In *Mitchell* Justice Thomas admits his First Amendment neutrality concept would not prevent tax-derived funds from being used for religious indoctrination. Rather, he concludes that only indoctrination "attributable" to government is prohibited under the establishment clause but that "attribution of indoctrination is a relative question."[7] For him and three other justices, if the aid is provided to a "broad range of groups," the religious indoctrination may not be attributed to the government and is perfectly permissible regardless of the nature, degree, and extent to which monies extracted from the taxpayer are used by a sectarian institution.[8]

In fact, Justice Thomas rubbed salt into the wounds of those who still believe tax money should not be diverted for proselytizing. First, he admitted that in Louisiana "there is evidence of actual diversion and that, were the [program's] safeguards anything other than anemic, there would almost certainly be more such evi-

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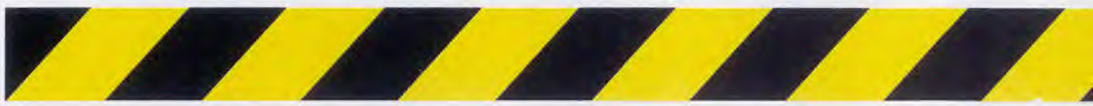
ILLUSTRATION BY RALPH BUTLER

dence." But he dismissed the diversion as irrelevant under his neutrality test. (Justice O'Connor argued that diversion is a relevant constitutional concern and thus there must be safeguards against tax-derived funds being diverted to religious indoctrination. She, however, concluded there was insufficient evidence of diversion to religious use in Jefferson Parish, Louisiana.) Second, Thomas asserted that opposition to such aid springs from anti-Catholic bigotry.[9] He asserted that proscription against using taxpayer money for sectarian activities equals hostility to religion. Thus religious institutions have an equal claim to the public till.[10] Jefferson and Madison would have been dismayed to learn that prohibiting the use of tax money to operate religious institutions was an act of religious hostility.

Thomas also seemed careless of the fact that one of the *Mitchell* plaintiffs is a lifelong committed member of the Roman Catholic Church who sent her children to Catholic schools but opposed tax funds being used for any part of the religious mission of her own parish church's parochial school. This was for two reasons: first, it forced her non-Catholic neighbor to support her parish's educational mission, and second, she was deeply concerned about the spiritual compromise that always results when the state attempts to secularize religion.[11]

In *Mitchell* Justice Thomas followed the lead of one of the cosigners of his opinion in finding only neutrality as the core value of the religion clauses. Earlier in 1990 Justice Scalia, while sacrificing the protections afforded by the free exercise clause on the altar of neutrality, ignored the fact that the Bill of Rights (including the religion clauses) is designed to protect the minority from the dictates of the majority. He concluded: "It may fairly be said that leaving accommodation [of one's religious convictions] to the political process will place at a relative disadvantage these religious practices that are not widely engaged in; but that unavoidable consequence of democratic government must be preferred to a system in which each conscience is a law unto itself."[12]

William B. Ball, the attorney who defended the Amish parents in Wisconsin v. Yoder[13], criticized *Smith*, stating that the "peril posed in *Smith* is precisely that it closes the door to real consideration of government accountability."[14]



In Smith the Supreme Court dropped a constitutional bombshell that blew apart the free exercise clause.

Ball argued that Scalia's *Smith* decision requires that "free exercise protection must be sought mainly in the legislature, and there the political powerless almost certainly will fare ill."[15]

Responding to Justice Scalia's extremism in *Smith*, which concluded that neutrality was the key to free exercise of religion, Justice O'Connor said that for Scalia to "reach this sweeping result, the Court must not only give a strained reading of the First Amendment but also disregard our consistent application of free exercise doctrine to cases involving generally applicable regulations that burden religious conduct."[16] Justice O'Connor argued against justifying the majoritarian oppression of those having religious convictions on the claim of democratic necessity, adding:

"The Free Exercise Clause of the First Amendment commands that 'Congress shall make no law . . . prohibiting the free exercise [of religion].' Because the First Amendment does not distinguish between religious belief and religious conduct, conduct motivated by sincere religious belief, like the belief itself, must be at least presumptively protected by the Free Exercise Clause."[17]

But the *Smith* majority would have none of this. Scalia in *Smith* uttered these frightening words, that carried with them the mandate of an all-powerful Supreme Court:

"Precisely because 'we are a cosmopolitan nation made up of people of almost every conceivable religious preference,' . . . and precisely because we value and protect that religious divergence, we cannot afford the luxury of deeming presumptively invalid, as applied to the religious objector, every regulation of conduct that does not protect an interest [of the state] of the highest order."[18]

Responding to Justice Scalia's argument that the "disfavoring of minority religions is an 'unavoidable consequence' under our system of government and that accommodation should be left to the political process," Justice O'Connor retorted: "The First Amendment was enacted precisely to protect the rights of those whose religious practices are not shared by the majority and may be viewed with hostility."[19]

Following *Smith*, constitutional law scholar Douglas Laycock of the University of Texas, stated categorically that "*Smith* creates the legal framework for persecution."[20] Thomas C. Berg, a professor of law at Samford University's Cumberland School of Law, observed that the "*Smith* [decision of Justice Scalia] led to a slew of lower court decisions allowing impositions on religious conscience."[21] And Chuck Colson, Prison Fellowship Ministries chair, lamented that Scalia's decision in *Smith* resulted in "egregious attempts to restrict religious liberty in prisons, schools, zoning determinations and even in church tithing disputes."[22] J. Brent Walker, executive director of the Baptist Joint Committee on Public Affairs, forcefully argued that in *Smith* "the Supreme Court dropped a constitutional bombshell that blew apart the free exercise clause and gutted it of any meaningful protections."[23]

Justice Scalia's and Justice Thomas's minimalist approach to the free exercise clause was a precursor to their corresponding mistreatment of the establishment clause in *Mitchell*. Like *Smith*, the *Mitchell* opinion would strip the establishment clause down to only a requirement of government neutrality. And, under Justice Thomas's opinion in *Mitchell*, the only protection against an individual being forced to financially support religious indoctrination against his or her will would be through the legislature. And there, the demands by the majority religions to have the taxpayer pay for their proselytizing efforts generally prevail against the nonadherent.

Thomas, while he claims to adhere to our founders' original intent, makes a mockery of James Madison's insistence that it is a denial of equal rights to force Americans to support a religion in which they do not believe.[24] But in *Mitchell* four justices of the U.S. Supreme Court—Chief Justice Rehnquist and Justices Thomas, Scalia, and Kennedy—embrace the logic for this form of tyranny and seemed willing to savage constitutional provisions designed to prevent it. In fact, they went too far for Justice O'Connor, who rejected their extremist view. Referring to Thomas's opinion, she wrote: "I write separately because, in my view, the plurality announces a rule of unprecedented breadth for the evaluation of Establishment Clause challenges to government school-aid programs."[25]

Justice Souter, dissenting for himself and two other justices, was even more critical, observing that the plurality opinion "[recognized] that the aid in question here was divertible and that there was substantial evidence of actual diversion [to religious purposes] exists." Quoting the same paragraph of the plurality opinion as Justice O'Connor, he stated that "as a break with consistent doctrine the plurality's new criterion is unequaled in the history of establishment clause interpretation."[26]

Souter demonstrated how little of the establishment clause guarantees would remain if Thomas's neutrality view became the law, stating that "adopting the plurality's rule would permit practically any government aid to religion so long as it could be supplied on terms ostensibly comparable to the terms under which aid was provided to nonreligious recipients. As a principle of constitutional sufficiency the manipulability of this rule is breathtaking. A legislature would merely need to state a secular objective in order to legalize massive aid to all religions, one religion, or even one sect, to which its largess could be directed through the easy exercise of crafting facially neutral terms under which to offer aid favoring that religious group. Short of formally replacing the establishment clause, a more dependable key to the public fisc or a cleaner break with prior law would be difficult to imagine."[27]

Justice Souter refers to the Thomas neutrality test as the "most deceptive" establishment clause consideration.[28] He noted that if the Court "looked no further than evenhandedness,

and failed to ask what activities the aid might support, or in fact did support, religious schools could be blessed with government funding as massive as expenditures made for the benefit of their public school counterparts, and religious missions would thrive on public money."[29]

In response to Thomas's claim that "any inquiry into the pervasiveness of doctrinal content as a remnant of anti-Catholic bigotry (as if evangelical Protestant schools and Orthodox Jewish yeshivas were never pervasively sectarian) and it equates a refusal to aid to religious schools with hostility to religion,"[30] Souter wrote: "The fact that the plurality's choice to employ imputations of bigotry and irreligion as terms in the Court's debate makes one point clear: that in rejecting the principle of no aid to a school's religious mission the plurality is attacking the most fundamental assumption underlying the establishment clause, that government can in fact operate with neutrality in its relation to religion. I believe that it can.[31]

Souter made clear that under Thomas's neutrality test "little would be left of the right of conscience against compelled support for religion.[32]

In sending the ominous warning that "if the plurality were to become the majority" the "plurality's notion of evenhanded neutrality as a practical guarantee of the validity of aid to sectarian schools would be the end of the principle of no aid to the school's religious mission,"[33] Justice Souter reminds us that if the plurality gains one more vote on the Supreme Court, the result will be the mirror image of Justice Scalia's majority opinion in *Smith*. That case severely compromised the protections guaranteed by the free exercise clause.

In both *Mitchell* and *Smith* legislative bodies drafted legislation that on its face was religiously neutral and merely stated a secular objective. Under such a neutrality test, as applied to both of the religion clauses of the First Amendment, religious practices (despite the free exercise clause) may be drastically impaired and massive financial aid may be funneled to and used by religious institutions for religious indoctrination (despite the establishment clause). Unsurprisingly, both Justices Scalia and Thomas voted to demolish the protections of both the free exercise and establishment clauses by whittling away at the Bill of Rights—every American's birthright.

It is clear that although seven of the nine justices in *Mitchell* recognized that money extracted from American taxpayers had actually been used for religious purposes in Louisiana, the plurality argued that such use of public funds taken from taxpayers was permissible. Thus the Court is now one voice from voting that American's tax money may be allocated in state or national legislatures to propagate religious opinions regardless of the beliefs or nonbeliefs of those American taxpayers.

The voucher issue may well be the vehicle for the complete destruction of the establishment clause.

Justice Souter recalled "Madison's and Jefferson's now familiar words [establishing] clearly that liberty of personal conviction requires freedom from coercion in support of religion, and this means that the government can compel no aid to fund it."[34] He quotes Madison's famous warning that "the same authority which can force a citizen to contribute three pence only of his property for the support of any one establishment may force him to conform to any establishment."[35]

Souter also noted that "Jefferson's Bill for Establishing Religious Freedom provided 'that no man shall be compelled to frequent or support any religious worship, place, or ministry whatsoever.'"[36]

But we now find that Justice Thomas's words mean more than the warnings of Jefferson and Madison.

The new meaning of the Court may well be reinforced. This new president may appoint up to three new justices to the Supreme Court. Any change is unlikely to include Justice Thomas's seat on the Court, but may well include Justice O'Connor's.

The *Mitchell* Court did not decide whether the politically charged issue of giving parents vouchers to use at religious schools would be constitutional. But apparently without deciding the question, Justice Thomas and three others signaled their support for vouchers or any other "neutral" aid. The voucher issue may well be the vehicle for the complete destruction of the establishment clause. Voucher supporters believe they have found support in Justice O'Connor's *Mitchell* opinion, which distinguished between funds provided directly to religious schools and funds "provided directly to the individual student," who, in turn, "made the choice of where to put that aid to use."[37]

But, as has been Justice O'Connor's hallmark, she narrowly rules on the discreet facts of each case and eschews bright-line tests in establishment clause cases because they "defy simply categorization."[38] Rather, for her, "resolution [in such cases] instead depends on the hard task of judging—sifting through the details and determining whether the challenged program offends the establishment clause."[39] And she has disclosed that she would be troubled by money grants that reach the coffers of religious institutions and by aid that is used for religious indoctrination.[40]

But new appointments the president may make to the Court during the next four years could make Justice O'Connor's position irrelevant. If vouchers are found to be constitutional, Jefferson's vision that no person should be taxed to support another's religion will have been destroyed by the one branch of government designed to protect the rights of the minority.

Within the near future America may well discover a Court abdicating its duty under the Bill of Rights and ignoring Jefferson's and Madison's idea that one of the principal purposes of the Bill of Rights is to protect the minority from majoritarian oppression. Jefferson believed that eternal vigilance is the price of liberty. In the past we have viewed the Supreme Court, armed with the Bill of Rights, as the guardian of religious freedom against the heavy hands of government's majoritarian branches (legislative and executive). How ironic that the demise of Jefferson's perception of the establishment clause was the subject of a Supreme Court wrecking crew in a case involving a school district named after him.

FOOTNOTES

[1] 494 US. 872 (1990).

[2] *Mitchell* v. *Helms,* 120 S. Ct. 2530 (2000).

[3] *Ibid.,* p. 2556 (O'Connor, concurring in judgment).

[4] 330 US. 1 (1947).

[5] Julian Boyd, ed., *Papers of Thomas Jefferson* (1950), Vol. II, p. 546.

[6] *Rosenberger v. Rector & Visitors of University of Virginia,* 515 U.S. 819, 851 (1995), O'Connor concurring.

[7] *Mitchell,* p. 2541.

[8] *Ibid.*

[9] *Ibid.,* pp. 2551, 2552.

[10] *Ibid.,* p. 2551.

[11] Brief of Respondents in *Mitchell,* p. 1, n.1.

[12] *Employment Division, Department of Human Resources, v. Smith,* 494 U.S. 872, 890 (1990).

[13] 406 US. 205 (1977).

[14] William B. Ball, "Accountability: A View From the Trial Courtroom," *George Washington L. Rev.,* 60 (March 1992): pp. 809, 817.

[15] *Ibid.*

[16] *Ibid.,* p. 89.

[17] *Ibid.,* p. 893.

[18] *Ibid.,* p. 988.

[19] *Ibid.,* p. 902 (O'Connor concurring).

[20] Douglas Laycock, "Summary and Synthesis: The Crisis in Religious Liberty," *George Washington L. Rev.,* 60 (March, 1992): pp. 841, 849.

[21] Thomas Berg, "Religious Freedom After Boerne," 2 (Fall 1997): Nexus pp. 91, 94.

[22] Charles Colson, "The RFRA Case as a Crisis of Constitutional Authority," *Ibid.,* pp. 21, 22.

[23] J. Brent Walker, "Religious Liberty: An Endangered Right," *Ibid.,* pp. 63, 64.

[24] James Madison, *Memorial and Remonstrance in Everson,* p. 66.

[25] *Mitchell,* p. 2556 (O'Connor concurring in judgment).

[26] *Ibid.,* p. 2590 (Souter dissenting).

[27] *Ibid.,* p. 2591, n. 19 (Souter dissenting).

[28] *Ibid.,* p. 2578 (Souter dissenting).

[29] *Ibid.,* p. 2582.

[30] *Ibid.,* p. 2597.

[31] *Ibid.,* p. 2597.

[32] *Ibid.,* p. 2591.

[33] *Ibid.,* p. 2596.

[34] *Mitchell,* p. 2574 (Souter dissenting).

[35] *Ibid.*

[36] *Ibid.,* n. 1, citing Jefferson, "A Bill for Establishing Religious Freedom," in *The Founders' Constitution,* P. Kurland and R. Kerner, eds., (1987), p. 84.

[37] *Mitchell,* p. 2558.

[38] *Ibid.*

[39] *Ibid.*

[40] *Ibid.,* p. 2566.

CAN★EXECUTIVE★ORDE

By Willis Wilkerson

The United States Constitution, Article I, states specifically that Congress and only Congress shall maintain the power to make federal laws. However, every president has presumed a type of lawmaking power. This is accomplished by means of what is known as "executive orders." For example under the War and Emergency Powers Act of 1733 the President was given the authority to declare a "national emergency." That might seem necessary only in times of crisis. But this order actually provides the potential for almost dictatorial power—certainly a bypassing of the usual democratic methods.

Some have the opinion that the War and Emergency Powers Act is an extra constitutional decree that enables a president to bypass Congress when needed, and employ whatever measures are deemed appropriate. Yes, some radical fringe groups have made misleading statements about executive orders from time to time, and the Internet is abuzz with much paranoia from conspiracy groups. However, most citizens seem unaware of the more rational and yet troubling shift to direct rule in these orders.

On June 3, 1994, President Bill Clinton recorded Executive Order No. 12919 to blanket all necessary issues in an emergency (this law was released on June 6, 1994). It encompasses all the executive orders previously applicable to emergency management of the country. The only thing this order doesn't do is define what the national emergency must be in order for this executive order to be endorsed. Virtually anything disruptive has the potential to be declared a national emergency in order for this law to be executed.

Part VII is of concern to many who have read and studied this order. It's titled "Labor Supply." Section A says it will be the secretary of labor's job to "collect, analyze, and maintain data needed to make a continuing assessment of the nation's labor requirements and the supply of workers for purposes of national defense." Under section C the secretary is to "formulate plans, programs and policies for meeting for defense and essential civilian labor requirements." Section E speaks of the secretary of labor appraising the jobs and the skills that will be critical in satisfying the labor requirements of defense and of essential civilian activities. Keep in mind that the Federal Emergency Management Agency (FEMA) is the organization behind the civilian labor camps. It is also the agency charged with making this executive order run smoothly.

In section 602 under Part VI, we see what it means to a common citizen. In the case of a presidential decree of national emergency, the president of the United States, with the aid of federal agencies, will have wide-ranging, direct control.

Order No. 10999 specifies control of all transportation, "regardless of ownership."

Order No. 10997 speaks to control of all forms of energy: "petroleum, gas (both natural and manufactured), electricity, solid fuels (including all forms of coal. . . , and atomic energy, and the production, conservation, use, control and distribution (including pipelines) of all of these forms of energy." The federal government would have complete and total control over who will have electricity and who will not.

In Order No. 10998 farmers would become part of "the production or preparation for market use of food resources." This is somewhat similar to Soviet era controls, when all farmers in Russia labored for the government. This control of human resources and equipment might be necessary in a crippling national emergency, but troublesome if, as decreed, it can be implemented on little more than executive decision.

Order No. 10998 specifies control of all fertilizer. This means that any "product or combination of products that contain one or more of the elements—nitrogen, phosphorus, and potassium" can be confiscated by the government. Difficult if you want to maintain a private garden.

Order No. 10998 also deals with control of all food resource facilities. This means "plants, machinery, vehicles (including on-farm), and other facilities required for the production, processing, distribution, and storage (including cold storage)." It includes "livestock and poultry feed and seed."

Order No. 11005 directs control of all water resources. All usable water from all of the sources within the jurisdiction of the United States! All the water that can be "managed, controlled, and allocated to meet emergency requirements." Not only can your water supply be turned off, but authorities could take any water you have stored in your house.

How many citizens have really pondered the implications to a free, democratic society in these orders? Yes, many basic liberties and freedoms would be early casualties in an executive order-mandated response to a truly major national emergency. More troubling are the religious lib-

ILLUSTRATION BY LAURA STUTZMAN/ELOQUI

erty implications to total control of labor and livelihood. Make no mistake about it, these executive orders do allow for an instant and massive evolution in our government.

Significantly, these orders do not address the value and character of human life. They tend to organize the American population at the level of domesticated animals, which have no control over their owners, have no possessions, and in many cases even work for their owners.

In recent years we have had an extraordinary number of presidentially declared "national emergencies." Each time, of course, FEMA has been involved. There have been cases in which people were not even allowed out of their homes, "for their own good" (after Hurricane Opal and the floods in Pennsylvania). President Clinton once commented, "If Congress doesn't cooperate with me, I'll just run the country by executive order." Interestingly, Clinton signed more executive orders than any prior president. President Franklin D. Roosevelt, of course, was the one who set in place the modern presidential dependence on executive orders when he mobilized the nation to combat a great depression. Arguably his measures worked, while greatly strengthening the direct powers of the presidency.

In 1933, Congress essentially made it possible for a president to exercise powers that could easily go beyond the intentions of a democratic populace. In using an executive order to establish the new White House Office of Faith-Based and Community Initiatives, President Bush is following a now well-established pattern of presidential action. However well-intentioned this action might be, it does underscore the ease with which executive orders can move events (note the generally expressed alarm at the initiative and the significant fact that vouchers, a not totally unrelated part of the overall presidential plan, were soundly defeated by popular vote in key states during the presidential election).

LIBERTY?

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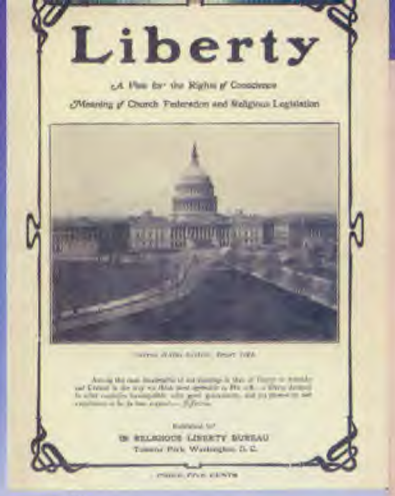
While this discussion can very easily flirt with paranoia, it is worth some serious consideration in a democratic republic jealous for its continued liberties. Supreme Court Chief Justice William Rehnquist deals somewhat with this topic in his thought-provoking book, All the Laws But One: Civil Liberties in Wartime, *published in 1998 by Alfred A. Knopf, New York.* Editor.



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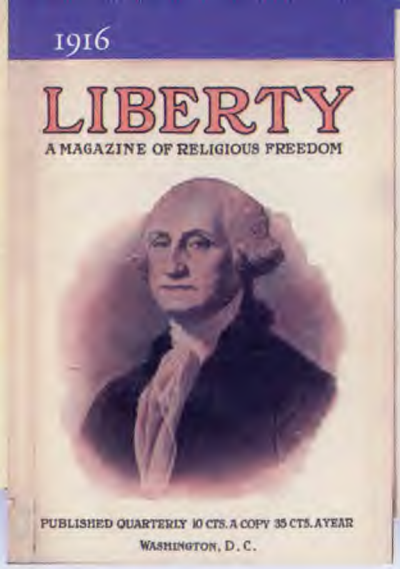

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THE RIDDLE of *Liberty*

By
GASTON LEFEVRE

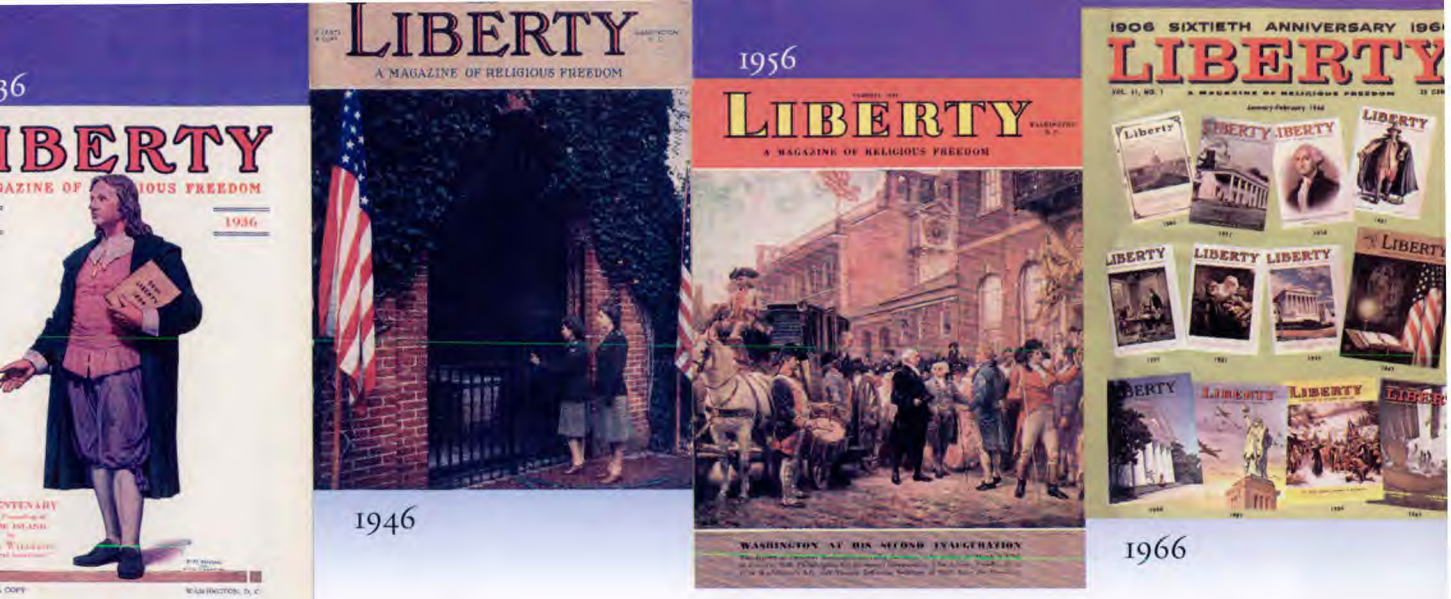
What's one to make of *Liberty?*

Here's a magazine—published by people who believe in Adam and Eve, Noah's ark, and the talking snake in Eden—that has taken a stand against Bible readings in public schools. Here's a magazine published by one of the few church bodies left who believe in a literal six-(24-hour) day creation, yet the magazine remains ambivalent about, if not opposed to, the teaching of creationism in public schools. *Liberty* is financially supported by people who take the Ten Commandments so seriously that some have been killed or imprisoned or fired from their jobs because of their refusal to violate those commandments, yet they have stated in *Liberty* opposition to posting the Ten Commandments on public property. *Liberty* is published by strong believers in the power of prayer, yet *Liberty* opposes legislated prayer in public school. *Liberty*, though published by a theologically conservative church, stands for "separation of church and state," in sometimes sharp contradiction to the stance taken by many conservative Christians in the United States today.

Why does *Liberty* sometimes stand with people who—with the exception of a few narrow church-state issues—are opposed to almost all that *Liberty's* publishers believe in, while just as often *Liberty* fights those who in almost every area except certain church-state issues would be in harmony with many of the core values of the publishers?

The answer is simple. *Liberty* is published by Seventh-day Adventists—and only by understanding who Adventists are, where they have come from, and what they believe can one begin to understand the riddle of *Liberty*.

Gaston Lefevre is a widely experienced editor, author, and champion of religious liberty who lives in Maryland.



Chain Gangs

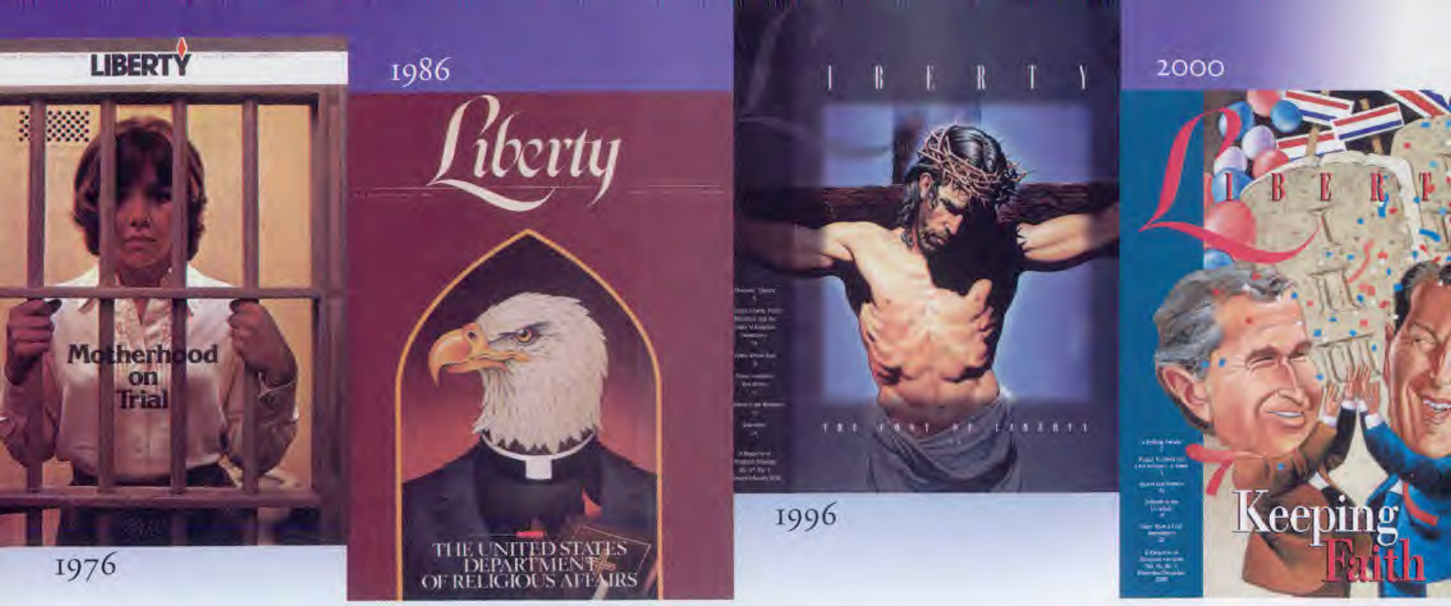
As the name *Seventh-day* Adventist suggests, Seventh-day Adventists not only keep the seventh-day Sabbath, they do it unabashedly. It's so much a part of their identity that it's in their name itself. It also helps explain their strong commitment to religious liberty (hence *Liberty* magazine).

The Adventist Church was born in mid-nineteenth-century America, at a time when many states had strictly enforced Sunday-closing laws. As a small religious group (fewer than 16,000 members by 1880; now nearly 11 million worldwide, 1 million of them in North America) with negligible political clout, Adventists found themselves at the mercy of a system that often showed little sympathy to those who, in contrast to most of the Christian world, kept "the old Jewish Sabbath." The problem Adventists faced wasn't direct official persecution for keeping another day holy (this was *America,* after all); instead, problems arose because many felt compelled to work on Sunday, often in defiance of state laws. Because their religion *commanded* that they keep the seventh day holy, which meant (among other things) refraining from work (see Exodus 20:8-11), many Adventists faced severe economic pressure. Whether farmers or small business owners, these people often couldn't afford to be closed two days a week, on the one day demanded by their God and on the other demanded by their government. For most of these Sabbath keepers the words of Peter were definitive: "We ought to obey God rather than men" (Acts 5:29).* The result of following God instead of human beings was for many jail, fines, confiscation of property, even chain gangs. Hard as it might be for us today to imagine people imprisoned on chain gangs because of Sunday-law violation, that's what some Seventh-day Adventists faced.

"Four Seventh-day Adventists," writes Warren L. Johns of one incident, "were tried on May 27, 1892, at Paris, Tennessee, on charges ranging from chopping wood and hauling firewood to plowing a strawberry field. After being fined $25 apiece, three of the defendants were marched through the street of Paris in the chain gang and forced to perform street labor."

Adventists, particularly in the Southern states, faced legal wrath for, even if indirectly, following their religious convictions (again, trouble came not so much because of keeping the seventh day holy, but for working on Sunday). Samuel Mitchell of Brooks Country, Georgia, was sentenced to 30 days in jail for plowing his field on Sunday (he served the sentence rather than pay the fine). In Arkansas, J. W. Scoles was arrested for painting the back of a church on Sunday; William Gentry was arrested for plowing his field. *American State Papers* depicted the account of one Adventist family that fell afoul of Sunday laws: "But they were observed [working on Sunday], and reported to the grand jury—indicted, arrested, tried, convicted, fined; and having no money to pay the fine, these

*Scripture references in this article are from the New King James Version. Copyright © 1979, 1980, 1982 by Thomas Nelson, Inc. Used by permission. All rights reserved.



moral Christian citizens were dragged to the county jail and imprisoned like felons for twenty-five days . . . and the old man's horse, his sole reliance to make bread for his children; was levied on to pay the fine and costs, amounting to thirty-eight dollars."

They believe in separation of church and state, not as an end itself, but as a means to an end—and that end is religious freedom.

Thus Seventh-day Adventists have, from their earliest days, been sensitive to religious liberty issues. And that sensitivity continues today. Though Sunday laws themselves have, at least for now, gone the way of segregated toilets (despite some U.S. Supreme Court rulings in the 1960s that upheld the constitutionality of such measures as Sunday "blue" laws), the Adventist commitment to the principles of religious liberty has not diminished. As one of the most obvious expressions of the Adventist faith—the biblical injunction to keep the seventh-day Sabbath holy—has decidedly put them out of the social and cultural mainstream, Adventists don't take their religious freedom for granted. For now, while governmental threats to freedom (in the form of Sunday laws) have abated in the United States, there's still the problem from the private sector, in which Sabbath keepers face discrimination on the job because of Sabbath keeping. Every year in the United States about 900 Adventists face workplace problems because of their faith, usually related to Sabbath observance. Clearly, then, the Adventist struggle isn't over.

Great Controversy

No question, Seventh-day Adventist concern about religious liberty began in self-interest; no question too, considering the continuing challenges, self-interest remains a factor in its continued involvement. However, the issue involves far more than mere Sunday laws or employment discrimination of Sabbath keepers.

Instead, for Adventists, religious liberty helps form the background of their own theology; it helps form their entire worldview, their understanding of why the world is the way it is, and where all things will ultimately lead. Often called the great controversy theme, this theology centers on what they understand as a cosmic battle between Christ and Satan, a battle that began in heaven (Revelation 12:7-10), a battle whose outcome was assured at the cross (John 12:31), a battle that will be consummated at the end of the age (1 Thessalonians 4:17), culminating in the second advent of Jesus Christ (hence the noun *Adventist* that *Seventh-day* modi-

fies in the name). An official church publication states that "all humanity is now involved in a great controversy between Christ and Satan regarding the character of God, His law, and His sovereignty over the universe."

A key component of this great controversy theme is religious freedom. The fall of Satan, the fall of this humankind, the introduction of sin—none of these tragedies could have happened without freedom. Had God not given these intelligent beings moral freedom, moral autonomy—but forced them to obey His will and His law—then sin, evil, violence, and death would never have arisen.

Yet aberrations did arise, but only because God didn't force His creatures to obey His will or His commandments. He allowed this freedom, even at a terrible cost to Himself. In Adventist theology, Jesus Christ, the Son of God, paid the penalty for the sins of the fallen world, sins that could never have appeared had not God allowed moral freedom. Had God not permitted this freedom, then Satan would not have fallen, humanity would not have fallen, and Jesus Christ would not have had to give Himself as a ransom for the human race (1 Timothy 2:6). Instead, viewing human freedom as something too sacred, too fundamental to the moral metaphysics of His government, God chose to go the way of the cross rather than force people to obey His will. That's how important religious freedom is to God, which helps explain why it's important to Seventh-day Adventists as well.

Separation of Church and State

Believing in religious freedom is one thing; believing in separation of church and state is another. They are not necessarily synonymous. Nevertheless, *Liberty's* statement of principles begins with this concise statement: "The God-given right of religious liberty is best exercised when church and state are separate." That statement explains the Adventist position and, in its own way, explains the riddle of *Liberty* magazine.

As just stated, Adventists believe that God has given humanity religious freedom as a right, a right that has come at a terrible price not just for humanity (whose abuse of the right brought sin, suffering, and death) but for God (whose Son died on the cross to solve the problem caused by abuse of that right). This freedom is essential because the essence of God's relationship with humankind is based on love: God's love for humanity, humanity's love for God.

Yet love, to be love, must be freely given. God asks human beings to love Him ("You shall love the Lord your God with all your heart, with all your soul, and with all your mind" [Matthew 22:37], but humans can do that only if they are free. Forced love is not love, nor can it ever be love.

"The exercise of force," wrote one of the early Adventist pioneers, "is contrary to the principles of God's government; He desires only the service of love; and love cannot be commanded; it cannot be won by force or authority. Only by love is love awakened." In Adventist theology God can force the entire world to fear Him, to obey Him, and to worship Him, but He can't make even one person love Him. Love has to come freely, or it can't come at all.

In contrast, the state of necessity rules by force—not by love. It would be wonderful if all people obeyed the state out of love for its ideals and leaders, but that's not generally the paradigm. Instead, the basis of all earthly governments is law, and laws are of no value unless force, power, coercion rest behind them. Even the most benevolent of governments wouldn't last a day did it not carry the power to enforce its laws, no matter how good or bad those laws were, no matter what process (either by referendum, plebiscite, or executive fiat) those laws were formulated.

God's kingdom works only by love, by voluntary obedience; the state works by force, by mandatory compliance. God doesn't force people to obey Him, not the way the state forces people to obey, for example, traffic laws or tax laws (imagine if federal income tax were voluntary). In one, the element of freedom is foundational; in the other, the element of coercion is founda-

tional. Both can work fine in their own sphere, when people render (freely) to God what's God's, and when they render (under coercion, to some degree or another) to Caesar what's Caesar's. Trouble starts, however, when these two foundational principles clash, particularly when Caesar, with the muscle behind him, starts to infringe upon turf that belongs only to God.

Here, in this contrast, rests the heart of the Seventh-day Adventist support of church-state separation principles. They believe in separation of church and state, not as an end itself, but as a means to an end—and that end is religious freedom. As much as possible, the things that belong to God, and hence need to be freely offered, must be kept out of the realm of the state, which by nature carries a big stick. The moment the state gets involved it automatically wields the stick it carries. And that's fine when it's dealing with speed limits, taxes, and crime, but not when it's dealing with things such as prayer, Bible readings, and religious symbolism.

Hence the Adventist position on many of these controversial issues (prayer in school, creationism in school, the posting of the Ten Commandments on public property, etc.) stems not from any hostility to these various expressions of faith, but from hostility to any form of government coercion behind these expressions, no matter how subtle or supposedly benign that coercion.

This is a position that many conservative Christians, for various reasons, no longer understand, which is why Adventist find themselves at odds with them over these specific issues. At the same time, many other groups, often from a secular perspective, support the concept of separation of church and state. That explains why Adventists find themselves with some strange bedfellows when it comes to church-state separation issues and at times feel uncomfortable with groups who might otherwise be radically opposed to most of what they stand for.

But however much Seventh-day Adventists believe in separation of church and state, it's not a dogma, a theological doctrine akin to the divinity of Christ or blood atonement. Adventists in North America represent less than 10 percent of the world Adventist Church. The majority of members live in nations in which separation of church and state is not the ruling paradigm. What the church seeks to do, then, in all these nations is ensure as much as possible that the principles of religious freedom are respected, whatever the existing political structure.

The concept that a small breach can open the way for greater, more blata ones later explains their diligent concern for any encroachment of these principles.

Last Days

Finally, Adventists are concerned about religious liberty issues because of their understanding of the Bible and the events that precede the second coming of Christ.

The book of Revelation clearly teaches that religious intolerance will increase in the last days of earth's history, and that some sort of church-state amalgam (known in Revelation as the "beast") will seek to enforce some form of apostate worship upon the world. Though the church doesn't claim to understand fully how or when these events will unfold, because of these beliefs Adventist tend to view with suspicion any attempts to break down the protections ensured by church-state separation principles. Though careful not to view every church-state challenge as a sure sign of the end-times, they can't afford to be naive, either. The concept that a small breach can open the way for greater, more blatant ones later explains their diligent concern for any encroachment of these principles. Adventists learned long ago that one doesn't need the trials of the end-times to face religious persecution. They still remember the chain gangs.

FBI

I am really concerned about religious freedom in America with President George W. Bush's faith-based programs. I can see a dangerous entanglement of the state in religious matters. Do you have an article on this? Isn't it time to investigate and sound the alarm on this proposal—allowing the American people to protest before this one get passed and further erodes the establishment clause of the First Amendment to the Constitution?

DARRELL K. WHITEFIELD, e-mail

(See the article "A Good Idea?" on page 8 of this issue.)

Tax Credit Proposal

Twice in the article "Charitable Choice" (January/February 2001) writer Steven G. Gey refers to government benefits with the word "entitled": "— as a condition of receiving the government benefits to which they are entitled," and "while simply attempting to obtain benefits to which they are entitled under federal law." The word "entitlement" presupposes that someone else is entitled to take money that lawfully belongs to me and use it for his own purposes, through government force. Gey fails to recognize that our charitible money properly goes to the church to begin with; it is not proper to funnel it through government first and back to the churches. It is a violation of the separation of church and state for the government even to be in the charity business; that is a proper function of religion, and when the government steps in, it interferes with the separation of church and state.

I have proposed that rather than having "charitable choice" programs, the government should give a 100 percent tax credit for every dollar that an individual donates directly to a church or charity. This is the only viewpoint fully consistent with our First Amendment rights. In accepting the myth that government has a right and duty to perform charity, Gey has missed the essence of the issue. People are not entitled to tax money taken by force. The sooner we recognize that, the better.

PAT GOLTZ, e-mail

Correction to "Tolerating"

The otherwise very interesting article "Tolerating the Intolerant" (March/April, 2001) by Derek H. Davis and Susan Kelley-Claybrook, contains a factual error. In discussing the 1999 controversy over the House chaplain, the authors report that one of the three finalists was a Lutheran minister. Actually, the third candidate was Robert Dvorak, a minister in the Evangelical Covenant Church and superintendent of the Covenant's East Coast Conference. Just thought you would like to know.

BOB SMIETANA
Associate Editor
The Covenant Companion
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Separation

Landed on your Web site *(www.libertymagazine.org)* and read your statement regarding "hostile" views of "church leaders" against "separation of church and state." I put "separation" in quotes as a popular phrase only. As a historian and social studies/government teacher, I know only too well this popular quote is a modern construct implemented by our courts and not our Founding Fathers or Constitution, preamble, Declaration of Independence, *The Federalist Papers,* etc.

THOMAS J. DRAPER, e-mail

The author of this e-mail may have actually been responding to an article he read in another publication, but the point he raises is of concern to us. The wall of separation as a figure of speech certainly goes back to Jefferson. However, the full implementation of this concept has indeed been of a more recent vintage. In spite of the oft-stated intentions of the founders to keep the state out of church business, it remained for more recent court decisions to uphold the principle. We are seeing a call from various church leaders for increased state funding and use of political power to "rechristianize" the nation. This is a trend that would clearly have troubled the framers of the Constitution. Editor.

The Liberty *editors reserve the right to edit, abbreviate, or excerpt any letter to the editor as needed.*

DECLARATION OF PRINCIPLES

The God-given right of religious liberty is best exercised when church and state are separate.

Government is God's agency to protect individual rights and to conduct civil affairs; in exercising these responsibilities, officials are entitled to respect and cooperation.

Religious liberty entails freedom of conscience: to worship or not to worship; to profess, practice, and promulgate religious beliefs, or to change them. In exercising these rights, however, one must respect the equivalent rights of all others.

Attempts to unite church and state are opposed to the interests of each, subversive of human rights, and potentially persecuting in character; to oppose union, lawfully and honorably, is not only the citizen's duty but the essence of the Golden Rule–to treat others as one wishes to be treated.

LIBERTY

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"Original Intent"

U. S. Supreme Court Justice Antonin Scalia made much of the word "originalist" during a stimulating and at times provocative lecture I heard him give last September at the University of British Columbia Law School in Vancouver. He had scathing comments for a judicial view of the Constitution as a "living document." This view, he maintains, has often cut us loose from the original intent of the framers of the Constitution. In his inimitable style he railed against the "Pollyanna-ish" interpretations of rights granted by courts in the complete absence of any constitutional specific, and at times in contradiction of assumptions we know were held by society at the time the nation was formed.

To be sure, there is great security in constitutional interpretation that is based on a close textual analysis. And Justice Scalia has been labeled a textualist, even if he himself seems to prefer the original intent approach to divining constitutional meaning. He is clearly on to something in analyzing history for constitutional clues. For, as our most recent presidential election underscored, the general public has become dangerously deficient in its understanding of both history and Constitution.

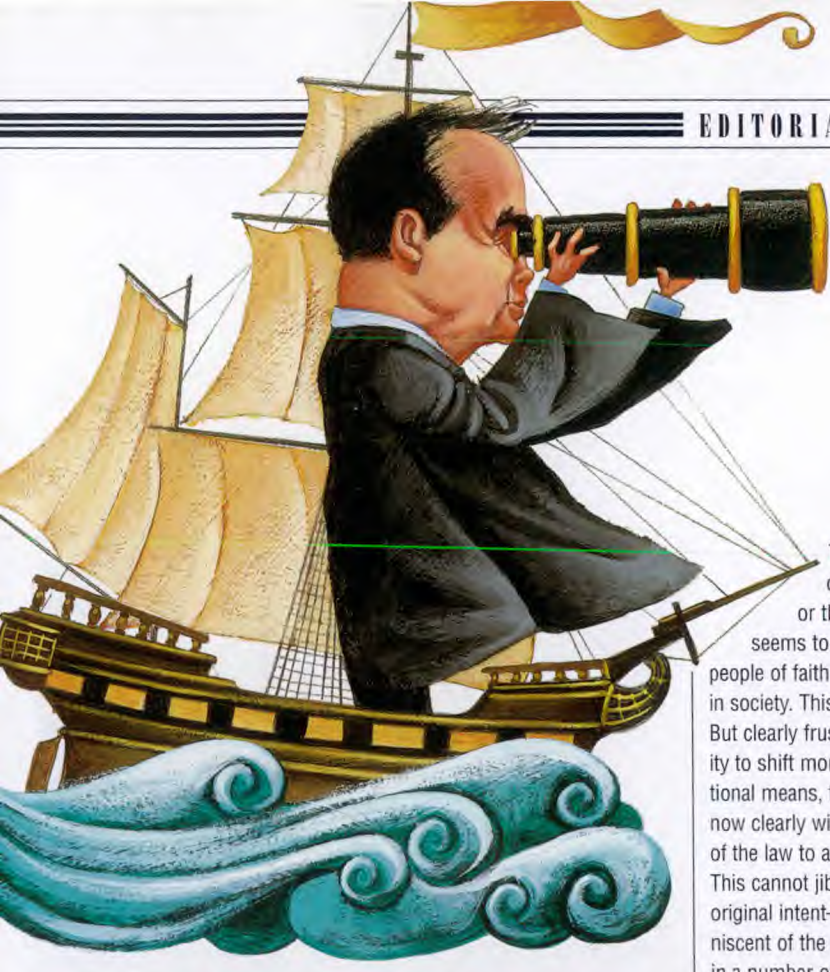
The fly in the ointment for Scalia's own worldview was also on display that weekend in Vancouver. After dazzling both the law students and attendees at a Protestant legal association convention with his commonsense approach, the justice horrified many with an extremely ideological Saturday evening dinner speech. Under the guise of a presentation focused on Thomas More—only a few days earlier declared patron saint of politicians by the pope—Scalia shocked his listeners with an in-your-face apology for his Catholic activism. It raised questions about the bias of his historical analysis. And yet, at the same time it underscored an issue that we often choose to overlook. We are too ready to ignore "original intent" in negotiating the ideological shoals.

The world of today is so different that those patriots of 1776 could not have imagined the landscape we inhabit. But we have very clear evidence of what they wanted to protect against . . . and clear evidence that we are drifting against newly risen rocks of the type they had barely escaped.

Jefferson, Madison, and others lived as close to the Reformation (Luther was summoned to Worms in 1521) as we live to their day. They knew why reformers like Luther, Zwingli, and Wycliffe sought to recapture the pure Christianity of the Bible. They knew the price in martyrs' blood that accompanied the efforts to throw off a religiopolitical power that took the claims of God as its own (Luther did not use the term Antichrist lightly).

They knew too how persistent the overbearing nature of a state church proved to be in England even after the Reformation. They had observed various Colonial attempts to export this pattern to the New World. In framing the Constitution they put a pause on the tendency.

Yes, they were men of the Enlightenment, who knew, as did all scholars, that the explosion of intellectual awareness followed causally in the train of Reformation freedoms. Yes, they were products of a generally Anglo-Saxon Protestant culture that accepted without negative analysis the norms of morality and public usage that implied—hence the "anomalies" of "In God We Trust" on coinage in a "new secular order," which by design kept religion and the state apart. And



they were suspicious of "papists" for historical, theological, and national reasons. This we know as part of their "original intent." Certainly the downside to this was a persistent anti-Catholicism, which, while reinforcing the need to separate church and state, also denied full privileges to its adherents. But today that has changed in ways the framers could not have imagined.

Several years ago the World Lutheran Federation signed an agreement with the Vatican, whereby both parties deemed Luther's split with the Catholic Church as merely a misunderstanding. (It was more than a little ironic that within months the Vatican announced a general indulgence as part of the Jubilee celebrations. Ironic, as the indulgence issue led directly to Luther's proclaiming the biblical view of righteousness by faith.)

Just last year in a New York *Times* article, Chuck Colson made a point of saying that "the gulf created by the Reformation has been bridged, and today Protestants and Catholics stand together as the largest religious block in the country." This has indeed changed the dynamic in church-state issues and removed most people's fear of blending the two to some degree. But how does this jibe with the original intent of the framers?

The United States is truly the battleground for a culture war, which often pits the militantly secular against the militantly religious. Original intent would have us affirm that the founders' vision could never have embraced a state purged of Christian moral values. But the use of the state to enforce them would hardly comport with their well-stated views.

The "original intent" of the Moral Majority or the Christian Right seems to have been to rally people of faith to make a difference in society. This we should all do. But clearly frustrated with an inability to shift mores through conventional means, this movement is now clearly willing to use the arm of the law to advance its agenda. This cannot jibe with the founders' original intent—at best it is reminiscent of the sad experiments in a number of the original colonies. They merely replicated the intolerance of the Old World and led directly to a Constitutional Congress repudiating that tendency.

It's remarkable how consistently in the current church-state debate the principals are ready to throw over or deny the "original intent" of their position. Why this is so could easily occupy several times the editorial space. Some of the answer lies in historical amnesia. Some must be ascribed to the almost pathetic hope that by submerging ideology, our more enlightened age can avoid the horrors of the past. I don't think the wise men of the republic would have bought that one.

Liberty magazine began publication 95 years ago. Its original intent was to proclaim a liberty that is Bible-based and supportive of the wonderful protections of the U.S. Constitution. The first issue appeared at a time of considerable agitation for Sunday laws and other religious legislation. My predecessors saw great danger to religious liberty. And yes, they saw this in some degree because of a prophetic template that they shared with the body of the Seventh-day Adventist believers.

How the world has turned since "original intent" set things in motion. We are now witnessing in the United States an unprecedented rush to move over "the wall" of separation between church and state. State money to churches for programs that to some degree embody their faith mission is the issue at hand. But of course, this is but the beginning. We are now in some ways at "the end of history," as Hoekema put it—where the processes appear to have worked themselves out. We are willing to describe historical "original intent" in quite the Orwellian way. The Reformation is over, as headlines early in the reign of this present pope announced on his first U.S. visit. Old prejudices won't work anymore. Let's declare the new crusade as a battle of faith against the secular. And let's get Uncle Sam to enlist.

LINCOLN E. STEED

The "establishment of religion" clause of the First Amendment means at least this: Neither a state nor the federal government can set up a church. Neither can it pass laws which aid one religion, aid all religions, or prefer one religion over another. . . . ★ The First Amendment has erected a wall between church and state. That wall must be kept high and impregnable. We could not approve the slightest breach.

–U.S. Supreme Court Justice Hugo Black (1886-1971), in *Everson v. Board of Education, 1947.*

Photo by Oscar White/Corbis